

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CLIFFORD J. DAVLIN,

Petitioner,

vs.

SCOTT R. FRAKES, Director of the  
Nebraska Department of Correctional  
Services, Nebraska State Penitentiary;

Respondent.

**8:22CV301**

**MEMORANDUM AND ORDER**

Petitioner Clifford J. Davlin (“Davlin”) filed a Petition for Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) on August 22, 2022. [Filing No. 1](#). On January 30, 2023, the Court ordered Davlin to show cause why this case should not be dismissed as barred by the statute of limitations set forth in [28 U.S.C. § 2244\(d\)](#). [Filing No. 7](#). Davlin filed his response on February 21, 2023. [Filing No. 8](#). On October 24, 2023, the Court was notified by the Nebraska Attorney General’s office, which is an Interested Party to this matter, that Davlin died recently while in the custody of the Nebraska Department of Correctional Services (“NDCS”). See NDCS News Release 23-68, “RTC inmate death,” <https://corrections.nebraska.gov/rtc-inmate-death-13>, archived at <https://perma.cc/U3PH-JMLG>.

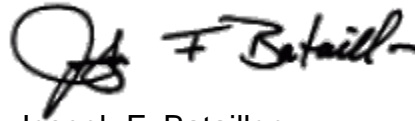
Because Davlin is deceased, this case is rendered moot and must be dismissed. See [McMillin v. Bowersox](#), 102 F.3d 987 (8th Cir. 1996) (dismissing appeal of denial of habeas petition as moot where petitioner’s “imprisonment ended upon his death, and there can be no future collateral consequences flowing from his imprisonment”); [Hann v. Hawk](#), 205 F.2d 839, 840 (8th Cir. 1953) (appeal from judgment granting writ of habeas

corpus “obviously became moot upon [petitioner’s] death” and judgment appealed from must be vacated and case remanded with directions to dismiss).

IT IS THEREFORE ORDERED that: The petition for writ of habeas corpus, [Filing No. 1](#), is dismissed without prejudice. No certificate of appealability has been or will be issued. The Court will enter judgment by separate document.

Dated this 30th day of October, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon  
Senior United States District Judge